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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,634	03/15/2002	Michael P. Whitman	11443/72	4140
26646	7590	06/09/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			FLANAGAN, BEVERLY MEINDL	
			ART UNIT	PAPER NUMBER
			3739	
DATE MAILED: 06/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/099,634	<b>Applicant(s)</b> WHITMAN ET AL.	
	<b>Examiner</b> Beverly M. Flanagan	<b>Art Unit</b> 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 22-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-16 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 10, 17 and 18 is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

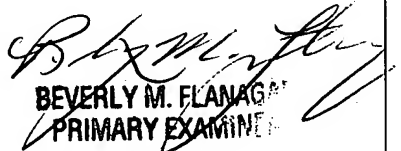
#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
BEVERLY M. FLANAGAN  
PRIMARY EXAMINER

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>See attached</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's election without traverse of the invention of Group I (claims 1-21) in the reply filed on March 17, 2005 is acknowledged. Accordingly, claims 22-36 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. The renumbering of the claims is also acknowledged,

### ***Information Disclosure Statements***

The information disclosure statements filed October 15, 2002, November 25, 2002, June 12, 2003, November 10, 2003 and May 16, 2005 have been made of record and the references cited therein have been considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the locking mechanism" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Higuma et al. (U.S. Patent No. 6,547,721).

In regard to claims 1-3, Higuma et al. teach an endoscope 1 comprised of an insertion unit 2, an operation unit 3 and a universal cord 4 (see Figure 1). Insertion unit 2 has a bendable part 9 having bending pieces 32 that actuate to bend the bendable part 9 via actuation of bending lever 11 (see Figure 3). An armor tube 35 made of a polymeric material, such a fluorine-contained rubber, surrounds the insertion unit 2 and bendable part 9 (see Figure 3 and col. 8, lines 10-14). Higuma et al. also teach a moisture absorptive member 158 that, as broadly as claimed, constitutes a moisture sensor disposed within the armor tube 35 to detect moisture.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-9, 11-16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higuma et al. (U.S. Patent No. 6,547,721) in view of Ishikawa et al. (U.S. Patent No. 6,071,233).

**In regard to claims 11-13 and 19**, see the above rejections for claims 1-3. **With further respect to claim 11 and in regard to claims 7-9 and 14-16**, Higuma et al. are silent as to a coupling including a locking mechanism that attached to armor tube 35. However, Ishikawa et al. disclose a channel tube 2 that is coupled to an endoscope to allow the passage of instruments via a fixing tape 42 (see Figures 3A and 3B). Higuma et al. thus demonstrate that channel tube 2 that detachably couple to the exterior of an endoscope via a flexible strip locking mechanism are well known in the art. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the endoscope 1 of Higuma et al. with the channel tube 2 and flexible tape 42 of Ishikawa et al. as a means to attach an additional tool tube to the exterior of the endoscope.

Claims 4-6, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higuma et al. (U.S. Patent No. 6,547,721) in view of Ishikawa et al. (U.S. Patent No. 6,071,233), as set forth above, and further in view of Abe (U.S. Patent No. 6,669,628).

**In regard to claims 4-6, 20 and 21**, Higuma et al. and Ishikawa et al. are silent as to a memory unit disposed on the endoscope 1. However, Abe discloses an endoscope having a memory 33 for storing data (see col. 3, lines 25-32). Abe thus

demonstrates that endoscopes having the ability to store data are well known in the art. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the endoscope of Higuma et al. with the memory 33 discloses by Abe.

### ***Allowable Subject Matter***

Claims 10, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

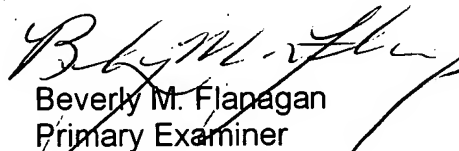
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Beverly M. Flanagan  
Primary Examiner  
Art Unit 3739

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